

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

ELLIS E. SMITH, #46586

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:06cv013KS-JMR

LOYD BEASLEY, et al.

DEFENDANTS

ORDER SETTING PAYMENT SCHEDULE

There came on for consideration the plaintiff's application to proceed in forma pauperis in this civil action.

Having carefully reviewed this matter, the court finds that plaintiff's application includes statements of his assets, of his inability to prepay fees, of the nature of the action, and of his belief that he is entitled to redress. Pursuant to 28 U.S.C. § 1915, as amended, and notwithstanding plaintiff's lack of assets, it is

ORDERED that plaintiff's application to proceed in forma pauperis is granted, except to the extent that plaintiff is required to make payments set forth below. If judgment is rendered against the plaintiff, and the judgment includes the payments of costs under Section 1915, plaintiff will be required to pay the full amount of the costs, notwithstanding that his application to proceed in forma pauperis has been granted.

IT IS FURTHER ORDERED that plaintiff shall pay the full filing fee of \$250.00 by payments made to the Clerk of Court from the plaintiff's prison account. **Said payments will be forwarded to the Clerk, U.S. District Court, P.O. Box 23552, Jackson, Mississippi 39225-**

3552, with the plaintiff's name and civil action number 2:06cv013KS-JMR written on the payment.

IT IS FURTHER ORDERED that the plaintiff's inmate trust fund account statement for the six month period immediately preceding the submission of his complaint of January 19, 2006, reflects average monthly deposits of \$ 6.43, an average monthly account balance of \$ 2.36 and a current balance of \$.55. The plaintiff is therefore required to pay an initial partial filing fee of \$ 1.29. The **South Mississippi Correctional Facility** or other prison at which plaintiff may be incarcerated is required by law, when plaintiff's prison account has sufficient funds, to collect the initial partial filing fee of \$ 1.29 and **forward it to the Clerk, U.S. District Court, P.O. Box 23552, Jackson, Mississippi 39225-3552, with the plaintiff's name and civil action number 2:06cv013KS-JMR written on the payment.**

IT IS FURTHER ORDERED that after payment of the initial partial filing fee, plaintiff is required to make monthly payments of 20 percent of the preceding month's income¹ credited to his prison account, until the total filing fee of \$250.00 is paid. The **South Mississippi Correctional Facility** or other prison at which plaintiff may be incarcerated is required by law, when plaintiff's prison account exceeds the sum of \$10.00, to **forward monthly payments with the plaintiff's name and civil action number 2:06cv013KS-JMR written on the payment, to the Clerk, U.S. District Court, P.O. Box 23552, Jackson, Mississippi 39225-3552**, with each payment being a sum which equals 20 percent of the preceding month's income credited to plaintiff's prison account.

¹Income shall mean "whatever sums enter a prison trust account, disregarding the source." Lucien v. DeTella, 141 F.3d 773, 776 (7th Cir. 1998).

The Clerk is directed to mail copies of this order to the **plaintiff, at the South Mississippi Correctional Institution, P.O. Box 1419, Highway 63 North, Leakesville, Mississippi 39451; Tammy Robertson, MDOC Inmate Banking Department, South Mississippi Correctional Institution, P.O. Box 1419, Highway 63 North, Leakesville, Mississippi 39451; and Leonard Vincent, Staff Attorney, P.O. Box 38, Parchman, Mississippi 38738.**

Failure to advise this court of a change of address or failure to comply with any order of this court will be deemed as a purposeful delay and contumacious act by the plaintiff and may result in the dismissal of this case.

THIS the 19th day of May, 2006.

s/ John M. Roper
CHIEF MAGISTRATE JUDGE